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Federal Communications Commission  
Office of Secretary

August 14, 1998

Michelle M. Carey  
Federal Communications Commission  
1919 M Street  
Washington, DC 20554

Subjects: (1) Computer III, Information Services, Further Remand Proceedings; (2) **CC Docket 97-172, National Directory Assistance (NDA)**; (3) CC Docket 92-105, N11 Codes First Report and Order and FNPRM

Dear Ms. Carey:

Thank you for taking the time to meet with Karen Johnson and myself on July 17<sup>th</sup> to discuss CC Docket 97-172, National Directory Assistance (NDA). We also met with Kris Monteith, Anna Gomez, Judith Albert and Greg Cooke to discuss other issues of concern to Metro One Telecommunications. Since the other issues are so closely related to the NDA issue, I am including a summary of Metro One's position relative to those positions and an explanation of how the issues are so interrelated. An appropriate decision in the CC 97-172, National Directory Assistance (NDA) can quickly and fairly resolve many outstanding issues before the Commission.

### ISSUES

**1)-COMPUTER III FURTHER REMAND PROCEEDINGS.** This proceeding, in Par. 96, proposes streamlining the requirements for BOC provision of information (i.e. enhanced) services in return for extending some or all rights accorded by section 251 to requesting telecommunications carriers, to pure ISP's. Directory assistance, other than the provision of telephone numbers for local intraLATA calls, is an enhanced service

Metro One meets the definition of a telecom service provider as defined in the Telecom Act, is certified as a telecommunications service provider in the state of Oregon, has a CIC code, and is an information services provider. Metro One has no objection to allowing the ILEC's to provide information (enhanced) services as long as all other information services providers are given the rights of section 251 and the ILEC's are actually honoring those rights by providing access to the relevant unbundled network elements under terms and conditions of section 251 and other relevant sections of the Telecom Act.

**All RBOC's and GTE currently refuse to provide directory assistance listings, even to CLEC's, under all terms and conditions of the Telecom Act.** Specifically Bell Atlantic refuses to provide the directory assistance in batch format unless specifically ordered to do so by a state PUC, such as has occurred in New York and New Jersey. All of the other RBOC's and

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GTE provide the listings in batch format if requested to do so.

However none of the RBOC's, including Bell Atlantic and GTE, will provide the listings at the price provided for in Section 252 (c) of the Telecom Act. The following table illustrates that the rates the ILEC's are charging, or have announced they are charging, are significantly higher than the admitted costs to provide the directory assistance of the only two ILEC's who have made their directory listing cost studies public.

**Directory Assistance Listing Cost Studies Completed**

<b><u>ILEC</u></b>	<b><u>Cost for Initial Listings</u></b>	<b><u>Cost Per Update</u></b>	<b><u>Reference</u></b>
SWBT	\$0.0066 per listing	\$0.0027 per listing	SBC/MCI arbitration Texas PUC
Bell South	\$0.001 per listing	\$11.81 per CO	Florida PSC, Docket No. 931138

**Sample Prices Actually Charged**

<b><u>ILEC</u></b>	<b><u>Cost For Initial Listings</u></b>	<b><u>Cost Per Update</u></b>	<b><u>Usage charge</u></b>
SWBT	\$0.0585 per listing	\$0.0585 per listing	-
Pacific Bell	\$0.02 per listing	\$0.02 per listing	\$0.5 per use
Nevada Bell	\$0.086615 per listing	\$0.086615 per listing	-
U S WEST	\$0.05 per listing	\$0.06 per listing	-
Ameritech	\$0.02 per listing	\$0.03 per listing	\$0.03 per use
GTE	\$700 per NPA	\$0.042 per listing	-
Bell Atlantic	(no batch availability)		\$4,000 per month plus \$0.038 per query

Even though the difference in the cost to produce the listings and the prices charged is a few cents, the fact that there are tens of millions of listings involved, creates a significant impact on a competitive provider. Since the ILEC's use similar processes and systems to produce their directory assistance listings, it is unlikely that justification exists for the much higher and inconsistent prices. It seems clear that the prices the ILEC's are charging are intended to make it as expensive as possible for directory assistance competitors to get established in the market before the ILEC's are able to get into the market, legally or not.

**Metro One's Position**

Among other things, Metro One is a national provider of Enhanced Directory Assistance service, including national directory assistance and call completion for various national and regional cellular and PCS telephone companies. Metro One also makes their service available to landline based carriers. Metro One has 16 call centers located throughout the U. S. One or more of these call centers are located in each of the RBOC operating areas.



As an enhanced information services provider, Metro One must have easy and cost effective access to the directory assistance listing information of incumbent local exchange carriers in order to compete with ILEC directory assistance providers. These ILEC's, specifically Ameritech, are offering directory assistance services out of their operating regions in bidding situations in direct competition with competitive directory assistance providers such as Metro One. The ILEC's also competes for directory assistance contracts within their regions with competitive carriers such as CLEC's and wireless carriers. It is in these competitive environments that Metro One operates. Metro One is happy to compete but to be able to do so it must be able to provide fast, accurate, timely and useful directory assistance information to its customers, Metro One must be able to acquire the directory assistance listings of the ILEC's in batch formats via magnetic tape, or some other electronic media, and at a cost that is consistent with the costs that the ILEC's incur in producing the directory assistance listings for their own operations.

It is in the interest of the public in general, and all telecommunications users specifically, to have competition in all phases of telecommunications service. Metro One has no objection to streamlining the entry of ILEC's into the information (enhanced) services market **as soon as they make the information that they themselves are using (i.e. directory assistance listings) available to all competing providers under terms and conditions of the Telecom Act.**

**2)- NATIONAL DIRECTORY ASSISTANCE (NDA), CC Docket 97-172.** The ILEC's are demonstrating they intend to compete aggressively, if unfairly, in the enhanced information services business. This is evidenced by fact that after all of these many years U S WEST, SBC, and others, all of a sudden feel it is important to their local exchange business to begin to provide National Directory Assistance (NDA). They are doing this despite the fact that they are prohibited from doing so by the 271(a) of the Telecom Act and were not previously authorized to provide the service by the Modified Final Judgement (MFJ).

This action, along with their refusal to provide directory assistance listings to competitive providers consistent with the terms and conditions of the Telecom Act, make it clear that the ILEC's intend to make it as difficult as possible for the competitive directory assistance providers to get established and at the same give themselves a head start in the business.

#### **Metro One's Position**

NDA as provided by U S WEST and announced by SBC is an in-region, interLATA telecommunications service. BOC provision of NDA is not an activity previously authorized by the MFJ. NDA is not an incidental intraLATA service.

The FCC should not grant the requested forbearance because NDA is clearly an anticompetitive offering intended to prevent the establishment and growth of competitive directory assistance services and gives the BOC's a head start on the provision of their own NDA service.



**3)- N11 SERVICE, CC Docket 92-105, FCC 97-15, First Report and Order and Further Notice of Proposed Rulemaking, Par. 48,** In this order the Commission concluded that "a LEC may not itself offer enhanced services using a 411 code, or any other N11 code, unless that LEC offers access to the code on a reasonable, nondiscriminatory basis to competing enhanced service providers in the local service area for which it is using the code to facilitate distribution of their enhanced services".

### **Metro One's Position**

If the Commission should grant the requested forbearance, U S WEST, SBC, Ameritech and other ILEC's must be prohibited from providing information (enhanced) using the 411 code until they can and have made that code available to competing information providers. Metro One is unaware of any jurisdiction or instance where an ILEC is willing or technically able to provide a competitive enhanced directory assistance provider, such as Metro One and other competitive providers, access to their 411 code so the customers of the ILEC can elect who their directory assistance provider will be and use the 411 dialing code to reach that provider. National Directory Assistance is an enhanced service and if they offer that service they must also provide competitive providers access to their 441 code.

### **Conclusion**

The FCC can resolve the major parts of the above proceedings by being consistent with previous decisions, order and opinions of the commission. By so doing the Commission will also be supporting the intent of Congress and providing telephone users the benefits of true competition.

The FCC can do this by allowing the ILEC's to provide NDA, and other enhanced services using their directory assistance listings, after they are able to prove that they are in fact providing their directory assistance listings to competitive providers, under terms and conditions of the Telecom Act and are willing and able to provide access to their 411 code to competing providers of directory assistance. The Telecom Act, The First Report and Order, The Second Report and Order and the decision of the Eighth Circuit Court of Appeals provide that the listings must be provided nondiscriminatorily, in batch format (if that is what the competitive provider wants), at the cost of producing the directory assistance listings, plus a reasonable profit.

That is a position that is consistent with the Telecom Act, fair and equitable to the ILEC's and the competitive providers, but most importantly provides the benefits of competition to the telecommunications users in The United States.

### **There is An Urgent Need for the FCC to Establish a National Directory Assistance Listing (i. e. Enhanced Information Services Provider) Policy**

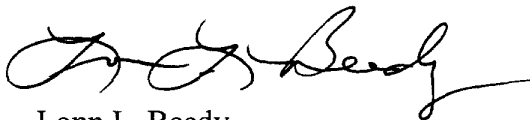
Many of the ILEC's have taken the position that they will comply with the terms and conditions of the Telecom Act and provide their directory assistance listings in batch format, and



at cost, even to telecommunications carriers, only if they have been ordered to do so by a state public utility commission as a result of an arbitration. They also have taken the position that they will only provide the listings for the state in which they have lost the arbitration. The impact of this position on Metro One and other CLEC's and competitive directory assistance providers is that they will likely have to file for arbitration of this issue in all fifty states if they want a complete set of ILEC's listings. Even one arbitration in one jurisdiction with an ILEC is very expensive and time consuming. Such a requirement makes it very difficult for a small business to compete with the ILEC's. Of course this is exactly what certain ILEC's have in mind. (It is important to note that in the two state jurisdictions that have done the most complete examination of the issue, California and New York, the commissions ordered the ILEC's to provide their directory assistance listings in batch format, at the cost of providing the listings, to all competitive directory assistance providers, even if they are not telecommunications carriers).

The FCC can quickly and fairly resolve these issues with decisions that are consistent with existing Commission policies, rules and orders. Not making a decision prolongs the uncertainty for competitive providers and allows the ILEC's to unfairly continue to build their enhanced information services business and increase their competitive advantage over the competitors.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Beedy", with a stylized, flowing script.

Lonn L. Beedy

